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In 1991, three farm workers in a Latin American country were arrested by the army. As concern for their safety mounted—members of the arrest battalion were said to have tortured other prisoners—a United Nations special rapporteur was informed of the case. He immediately sent a cable to the Government, appealing for the workers' safety. Twenty-eight days later, the Government replied: the three had been released without harm.

Also in 1991, another United Nations rapporteur sent a cable to the Minister for Foreign Affairs of an Asian country, asking that urgent medical attention be given to a detained person whose health was reported to have deteriorated. One month later, the Government responded that the detainee had undergone a hospital examination and was convalescing at home.

During a recent mission to an Asian country, a rapporteur was approached by a family seeking the release of a detained relative. The rapporteur contacted the President of the country, who then ordered the prisoner's release. The rapporteur was thus able to receive the freed person and escort him home.

These are but three examples of United Nations action to protect human rights. Through a network of mechanisms developed over the years, the United Nations has greatly expanded its capacity to intervene and get results.

Monitoring Compliance

One such mechanism is the monitoring of States' compliance with human rights treaties. A number of United Nations treaties obligate States that ratify them to respect human rights and to report on how they ensure human rights protection. Among these are the International Covenant on Civil and Political Rights (which has 112 States parties), the International Covenant on Economic, Social and Cultural Rights (115 States), the Convention on the Elimination of All Forms of Racial Discrimination (132 States), the Convention on the Elimination of All Forms of Discrimination against Women (116 States), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (68 States) and the Convention on the Rights of the Child (120 States).

Compliance with these treaties is monitored by committees of independent experts, who encourage human rights protection and examine State respect for their international undertakings. One such body is the Human Rights Committee, which monitors State adherence to the International Covenant on Civil and Political Rights. The 18-member panel examines, in public sessions, periodic reports from States parties on the measures they have taken to give effect to the rights recognized in the Covenant, and on the progress made in the enjoyment of such rights.

Representatives of the State concerned present these reports, answer detailed and often pointed questions posed by each member of the Committee and may be asked to submit additional information. Many States send high-level delegations to these sessions—ministers, heads of the judiciary and attorneys-general. The Committee then forwards its comments to the State. This dialogue often prompts changes in State law or practice.

The Committee usually meets three times a year and transmits a report on its activities to the General Assembly, which takes action on the basis of its recommendations. The system yields results. According to Ambassador Andreas Mavrommatis, a member of the Committee, "Not a single country, not even the worst country in so far as violations of human rights are concerned, can afford international criticism for a long time, especially when this criticism is not the sort of random criticism by a Government but comes from an independent body of experts . . . During the last 15 to 16 years that the Committee has been working, we noticed improvements in respect of quite a few [countries]."

Similar dialogues between States and United Nations bodies verifying compliance are carried out for other human rights treaties. The committees include the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and the Committee on the Rights of the Child. Their persistent action has led to concrete results: all over the world, detainees have been released, executions have been suspended, prisoners have been examined by doctors and laws have been amended to bring them in line with international standards.

Individual Complaints

Certain treaties permit individuals or organizations to appeal directly to the United Nations by submitting complaints of human rights viola-

tions. For instance, under the First Optional Protocol to the International Covenant on Civil and Political Rights, the Human Rights Committee is empowered to examine individual complaints. The complaint must concern a State party to the Protocol; at present there are 66 States parties. If the Committee deems the complaint admissible, it is forwarded to the attention of the State charged with violating the Covenant. The State is obliged to submit an explanation clarifying the matter and indicating what remedy, if any, has been taken.

Complaints from individuals are kept confidential and considered in closed meetings. But all final decisions are made public, and the Committee proclaims whether or not, in its view, a violation of the Covenant has occurred. The views of the Committee are not binding, but the system under the Protocol does achieve results through persuasion of States parties. Often, the Committee takes action even before stating its views—for instance, when advising Governments against a threatened expulsion or for the suspension of a death sentence.

Work under the Protocol started in 1977. Since then, 514 complaints concerning 42 States have been registered for consideration. The Committee has made known its views in 138 cases, establishing in 106 instances that violations of the Covenant had happened. The number of complaints has grown in recent years; many refer to cases of ill treatment in detention, unfair trial and discrimination on various grounds.

The Human Rights Committee can also look into individual complaints on the basis of the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims to abolish the death penalty and bars States parties from executing anyone within their jurisdiction. The Protocol has 11 States parties.

Individual complaints can also be submitted to other human rights bodies. Twenty-eight States parties to the Convention against Torture have accepted the clause allowing the Committee against Torture to examine individual complaints. Likewise, 14 States parties to the Convention on the Elimination of All Forms of Racial Discrimination have agreed that the Committee on the Elimination of Racial Discrimination can look into individual complaints.

The 1503 Procedure

The 1503 procedure takes its name from the number of the United Nations Economic and Social Council resolution that makes provision for it. Under this mechanism, United Nations experts consider allegations of abuses from individuals and organizations to determine whether there is a "pattern of gross violations of human rights" in a given country.

The complaints and charges are transmitted to Governments, which are asked to reply. If a pattern of human rights violations is established, the matter is prepared for review by the competent bodies, which decide whether further United Nations intervention is needed. The Commission on Human Rights might, for example, decide to draft a report or launch an investigation.

One of the strong points of the 1503 procedure is that it leads to a dialogue with the countries where violations are alleged to have taken place. Government cooperation has grown through the years, as the procedure has become more and more accepted. By 1992, the human rights situation in 47 countries had been placed before the Commission under the 1503 procedure. On average, between 30,000 and 40,000 communications are received each year for processing; in 1989, more than 300,000 communications were logged.

Fact-finding

In the case of serious human rights violations, the Commission on Human Rights may decide to appoint special rapporteurs or a working group to investigate.

Some rapporteurs focus on a specific country, while others deal with issues. At present, country rapporteurs are examining Afghanistan, Cuba, El Salvador, Equatorial Guinea, Guatemala, Haiti, Iran, Iraq, Myanmar, Romania and Southern Africa. Israeli practices in the occupied territories and the situation in Kuwait under Iraqi occupation are also under scrutiny.

Thematic rapporteurs and working groups are looking into summary or arbitrary executions, torture, enforced or involuntary disappearances, arbitrary detention, the sale of children and other child abuses, religious intolerance and the negative impact of mercenaries on the right to self-determination.

When the Commission is informed of widespread human rights violations, it may examine the question under a confidential procedure and discreetly contact the Government in an attempt to resolve the situation. But the Commission may also go public and appoint a rapporteur or working group. In certain cases, the Commission appoints a rapporteur when other means have failed.

Every year, the rapporteurs and working groups submit a report to the Commission and/or the General Assembly in which they assess the situation in the previous 12 months, explain the initiatives they took to defend human rights and recommend ways to remedy the problem. The Commission and/or the General Assembly can then take action.

To prepare the reports, information is gathered from many sources, including Governments, human rights organizations, witnesses, victims and relatives of victims. At Government invitation, rapporteurs visit the country they cover to get firsthand knowledge of the human rights situation. During such visits they hear from victims, witnesses and members of human rights organizations and discuss with the Government ways of improving human rights protection.

Rapporteurs are often able to visit prisons, talk in private with prisoners and verify their conditions. In 1991, rapporteurs carried out fact-finding missions in 27 countries, among them Brazil, Sri Lanka, Zaire and Indonesia, where the focus was on East Timor.

Dealing with Violations

Established in 1980, the Working Group on Enforced or Involuntary Disappearances was the first mechanism set up to deal with human rights violations in an issue-oriented manner, irrespective of where they were reported to have occurred. The Group examines reports on disappearances submitted by relatives of missing persons or human rights organizations. After determining their validity, it transmits individual cases to the Government concerned, requesting an investigation and a report on its result. Cases are kept on file until the exact whereabouts of the missing person have been determined.

The other mechanisms designed to protect the rights of persons deprived of their liberty are the Special Rapporteur on Summary or Arbitrary Executions, the Special Rapporteur on the Question of Torture and the Working Group on Arbitrary Detention. These mechanisms operate on three levels. First and foremost, they deal with individual cases, seeking to protect the life and physical integrity of the alleged victims. Second, they study situations in individual countries, recording their observations in general reports and in special reports following country visits. Third, they examine the phenomena of disappearances, executions, torture and detention as such, analyzing their dynamics and dimensions.

Perhaps the single most important factor contributing to the phenomenon of disappearances may be that of impunity. As the Working Group on Disappearances stated in 1990, "The Working Group's experience over the past 10 years has confirmed the age-old adage that impunity breeds contempt for the law. Perpetrators of human rights violations, whether civilian or military, will become all the more brazen when they are not held to account before a court of law. Impunity can also induce victims of these practices to resort to a form of self-help and take the law into their own hands, which in turn exacerbates the spiral of violence . . ."

Investigating Cases

The Working Group on Arbitrary Detention is the most recent addition to the series of mechanisms designed to protect the rights of persons deprived of their freedom. Its five independent experts are required to *investigate* cases—a totally new and important concept, since similar mechanisms in the past have only *examined* cases, questions or phenomena. In applying what is referred to as the "adversary approach", the Working Group will consider the elements provided by both sides—the complainant and the State—concerning legal and other circumstances relating to each case.

Dialogue with Governments

As part of their mandate, rapporteurs and working groups submit to Governments cases of alleged human rights violations, asking for comments. Most Governments reply, even if only to deny the charges. A dialogue is thus established, often leading to results.

Since its creation in 1980, the Working Group on Enforced or Involuntary Disappearances has dealt with some 35,000 cases of disappearance in 55 countries. Over the years, the Group has informed relatives of any replies received from Governments, followed up Government investigations and given relatives and human rights organizations the opportunity to comment on Government replies. It has thus established a channel of communication between the families of disappeared persons and the Governments, and has developed a dialogue with most Governments.

At least once a year, the Group reminds every Government of cases that have not been clarified. All unresolved cases transmitted in the most recent six-month period under the "urgent-action" procedure (see below) are reported again to the Government concerned every January and July. Governments often cooperate, clarifying a case or inviting the Group to visit the country. Sometimes they report that the missing person has been released.

"The problem of disappearances has not abated", the Working Group reported in 1991. But "a growing awareness of the problem as well as the existing international procedures have made it possible for relatives or an increasing number of non-governmental organizations to draw the attention of the international community to cases that in the past would have remained hidden".

"The Working Group does not function in isolation", the report added, "dependent as it is on a flow of information from independent sources as well as on the cooperation of States . . . . The Group notes with satisfaction that there are at present few Governments that do not cooperate with it".

Similar conclusions were drawn by the rapporteur on executions. Reviewing 10 years of work, he stated in 1992 that "the vast majority of countries . . . have cooperated by replying to at least some of the allegations or requests . . . . Some Governments have indicated that police officials, military officials and hired killers . . . have been convicted and sentenced to terms of prison up to 37 years . . . . In several countries, death sentences have been commuted to terms of life imprisonment . . . . In a few cases, Governments have enacted reforms enlarging the competence or powers of civilian authorities to investigate or judge military authorities suspected or accused of summary or arbitrary executions".

Urgent Actions

In response to alleged cases of disappearance, torture, arbitrary detention and summary or arbitrary execution, rapporteurs and working

groups send "urgent-action" cables to Governments, appealing, on humanitarian grounds, for the protection of the individual concerned. In 1990 alone, nearly 1,100 cases were transmitted to Governments by cable. The Working Group on Disappearances reported in 1990 and 1991 that clarifications under the urgent-action procedure were as high as 25 per cent. This suggests, it said, that by acting swiftly the Group may help prevent irreparable damage.

The rapporteur on summary and arbitrary executions makes use of the urgent-action procedure whenever a life-threatening situation is brought to his attention. The result of such intervention is often the commutation of a death sentence or the retrial of a person sentenced to death after a trial that did not respect human rights standards. Says this rapporteur: "Effective response to information in cases where a summary or arbitrary execution is threatened or imminent is one of the most important aspects of my mandate, since timely response by a Government to whom an urgent appeal is addressed could be vital."

Those who avail themselves of United Nations human rights procedures—or attempt to—may be subjected to intimidation or reprisal. To help prevent such harassment, a "prompt intervention" procedure was started in 1990 to protect complainants, witnesses, legal assistants and relatives of victims. Whenever reports of intimidation or reprisal are received, the rapporteur or working group contacts the Government concerned, appealing for immediate steps to protect the person(s) affected.

Good Offices

The most confidential mechanism for the protection of human rights is the good offices procedure, utilized by the United Nations Secretary-General and the Under-Secretary-General for Human Rights. In certain cases, they contact a Government on a confidential basis, appealing for the solution of a human rights situation—such as the release of a political prisoner or the commutation of a death sentence.

Good offices interventions are almost never publicized, but do yield results. Says a United Nations official, "This brand of quiet diplomacy is very effective, indeed producing results. It is difficult for a head of State to say 'No' to the Secretary-General."

In a way, all rapporteurs and working groups are involved in good offices. In 1991, a rapporteur appealed to the President of an Asian country regarding the death sentences of several persons said to have been involved in an attempted coup. As a result of this appeal, all death sentences were commuted to 20 years' imprisonment.

Public Pressure

The effects of international pressure on Governments are difficult to assess. If a Government frees a political prisoner or suspends its practice of torture, it is usually impossible to tell why it decided to do so. Usually a combination of factors is responsible. Certainly, though, the action of the United Nations mechanisms is one such factor.

The reports of the United Nations experts help focus world attention on human rights abuses, thereby exerting pressure on Governments. All reports are published and publicly discussed by the Commission on Human Rights—a discussion in which representatives of both Governments and human rights organizations participate. The reports are scrutinized by the media, which draw the attention of international public opinion to perpetrators of human rights violations.

"Peer pressure" is also exerted. At the Commission, several country delegates have repeatedly stressed that all countries are obligated to cooperate with its monitoring procedures. As one United Nations official commented, "Many Governments try to avoid public discussions, not only by diplomatic maneuvering, but also by improvements at home."

United Nations action also leads to improvements in legislation. Following a rapporteur's recommendation, the Philippines revoked a decree giving jurisdiction to the military courts over all offences committed by the army and police. Peru enacted a decree allowing officials of the Attorney General's Office to enter military installations and police detention centres in areas under state of emergency in order to verify the situation of detainees. Turkey issued new regulations on the procedure to be followed by the police in questioning suspects.

The invaluable assistance offered by human rights organizations has also been acknowledged. In 1991, the Under-Secretary-General for Human Rights stated, "In all our endeavours for the protection and promotion of human rights, we are assisted by countless non-governmental organizations, such as Amnesty International and the International Commission of Jurists, which operate in basically every country of the world and which provide us with timely information about alleged human rights violations."

World Conference

One of the major objectives of the World Conference on Human Rights to be held in Vienna in June 1993 is to evaluate the methods and mechanisms used by the United Nations in the field of human rights and to make recommendations for improving their effectiveness. To strengthen such mechanisms, Antoine Blanca, Under-Secretary-General for Human Rights and Secretary-General of the World Conference, has suggested that all countries ratify the major human rights treaties.

"For the Conference to succeed", he stated, "'human rights' should be understood to include as integral parts the three elements of protection, promotion and prevention. These three elements should receive the same degree of attention. To that end, greater efforts would have to be dedicated to the universal ratification of basic human rights instruments, and therefore broader monitoring of their implementation . . . . The World Conference could thus consider setting . . . the target of universal ratification of the Covenants and other basic human rights instruments . . . by the year 2000".

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Iraq, May 1991: As fighting spreads, nearly 2 million people seek refuge in Iran and Turkey and tens of thousands gather at the Iraq-Turkey border.

Myanmar, April 1992: More than 250,000 members of the Rohingya minority population are cast out of the country, saddling neighbouring Bangladesh with a host of exiles in need of sanctuary.

Kenya, July 1992: Some 400,000 refugees are in the country, having fled civil strife and drought in Somalia, Ethiopia and the Sudan, and hundreds more arrive daily.

Former Yugoslavia, August 1992: A brutal communal conflict drives more than 2.5 million people from their homes in the largest forced movement of peoples in Europe since 1945.

From Afghanistan to the Balkans, and from Haiti to the Horn of Africa, millions of people around the world are suffering under situations of extreme distress. But whether they are refugees, persons displaced within their own countries or other civilian victims of war and political upheaval, their plight is the same: they need immediate protection and assistance as well as long-term guarantees that they will be able to live in peace and return safely to their homes with confidence that their human rights will be respected.

Despite the numerous human rights violations routinely inflicted upon refugees—such as piracy, rape, detention in inhumane conditions and expulsion—human rights and humanitarian issues have grown up somewhat isolated from one another. One reason for this is that concern over human rights violations has usually focused on those occurring within countries.

But the gap is being bridged quickly as officials in both fields, helped by the swift pace of events, recognize the clear links between human rights and humanitarian situations. The topic is now on the agenda of the United Nations General Assembly, the United Nations Commission on Human Rights and other parts of the United Nations system.

In February 1992, the United Nations High Commissioner for Refugees, Sadako Ogata, spoke before the Commission on Human Rights about the close connection between lack of respect for human rights and the problem of refugees. "Human rights violations are a major cause of refugee flows," she said. "Although the immediate cause of most refugee movements is armed conflict or serious internal disturbance, human rights violations, combined with severe economic deprivation, usually lie at the root of the conflict or aggravate it. In situations where fear of persecution is the basis of flight, the link between human rights violations and refugee flows is even clearer."

Other links between refugee problems and human rights include abuses that occur in countries of asylum, which create complex protection problems, and the fact that the restoration of acceptable human rights conditions in the country of origin is a major factor in resolving long-standing refugee situations.

Article 14 of the United Nations Universal Declaration of Human Rights establishes the bond between refugees and human rights, stating that "everyone has the right to seek and to enjoy in other countries asylum from persecution". The main treaties covering refugees *per se* are the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol. These two instruments form the basis of the international regime of refugee protection.

A refugee, the Convention reads, is "any person who . . . owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it". Under this definition, there are an estimated 17 million refugees in the world today.

The Convention and Protocol firmly establish the principle of "non-refoulement", which ensures protection for refugees against being returned to their country of origin against their will. The treaties also affirm the right of refugees to employment, education, public assistance, social security and travel documents.

Although many States have acceded to the Convention and/or the Protocol—110 of 179 United Nations Member States are States parties—adherence in some regions of the world is lacking. There are only eight States parties in Asia and Oceania, and, in the Middle East and

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North Africa, States parties number only seven.

Another problem involves limitations in the Convention itself. Compared to the 27 million people uprooted by the Second World War, in whose aftermath the Convention was drafted, today's refugees often fall outside the categories of persecution established as the basis for granting asylum.

For instance, if people cannot earn a living because their country is engulfed by civil war, are they victims of political persecution under the 1951 Convention? A similar question can be asked about chronic underdevelopment and living conditions that prevent people from securing their basic needs. Can the denial of social and economic rights be defined as persecution? What about cases when the denial of these rights is motivated by race, religion, political belief or because the victims belong to a specific ethnic group?

This broadening emphasis on circumstances in the country of origin underscores another of the Convention's perceived shortcomings —its "post-flight" emphasis. The stress given to the receiving country might suggest that the refugee problem is one of immigration controls and conditions of stay abroad. But, of course, the root causes of displacement, including violations of human rights, lie in the country of origin.

The Office of the United Nations High Commissioner for Refugees (UNHCR)—the leading international organization responsible for protecting and shepherding assistance to refugees—is increasing its work in this area, taking a more holistic view of the problems of refugees and paying particular attention to the full range of human rights protections.

Internally Displaced Persons

The internally displaced are those people who have been forced to flee their homes but have remained in their own country. There are at least 20 million displaced persons around the world, many of whom have suffered serious violations of their basic human rights. Indeed, the factors causing refugees and displaced persons to uproot themselves are often identical.

Of course, as human beings, internally displaced persons are supposed to benefit from basic international human rights standards, such as those in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Yet there are no international standards specifically applicable to internally displaced persons, nor any single international body having the mandate or capacity for protecting their rights. According to a 1992 United Nations report:

"There is at present no clear statement of the human rights of internally displaced persons, or those at risk of becoming displaced. The applicable international law is a patchwork of customary and conventional standards: some of it is applicable to all persons, some of it is applicable only to certain subgroups of internally displaced persons (for instance those displaced because of armed conflict), and parts of it may not be applicable at all . . . ."

The situation faced by displaced persons, the 1992 report says, is an injustice which calls for the creation of an effective system to protect the rights of the internally displaced. Specifically, the report calls for fashioning from existing standards a single, comprehensive, universally applicable body of principles addressing the needs and problems of displaced persons.

It has also been pointed out that internally displaced persons who live away from borders are less likely to cross a border and qualify for international assistance as refugees. Such people find themselves in the unenviable position of failing to achieve refugee status while losing the protection of their own Governments. Considerable controversy surrounds the question of whether or not displaced persons should be known legally as de facto refugees.

The Need for Prevention

Ultimately, the situations which create flows of refugees and displaced persons must be prevented. Economic growth, sustainable development and observance of human rights in all countries are seen as basic needs for this to occur. As stated in a 1991 *Note on International Protection* by the High Commissioner for Refugees, prevention "requires more effective utilization of human-rights protection and development mechanisms. Strengthened observance of civil and political rights, but equally of economic, social and cultural rights, is fundamental in dealing with the root causes".

Preventive strategies that could be pursued before people begin to flee include human rights advisory services, monitoring by the international community, establishing national or regional structures for protecting minority rights, disseminating information about human rights, promoting mediation as a means of conflict resolution and encouraging tolerance for diversity and respect for human rights generally. Among other things, prevention can help ease the burden that refugee crises place upon developing countries. Poorer nations receive the lion's share of the world's refugees but have scarce resources available to cope with their needs.

States must play a central role in seeing that more emphasis is placed on prevention. Says Ms. Ogata, "States should exercise the political will to look into root causes and undertake action to solve the situation. The country of origin must accept responsibility for its own citizens, both in terms of preventing situations which can give rise to refugee flows and creating conditions which allow their safe and voluntary return. The principles of international solidarity and cooperation also demand that other States help the country of origin to fulfil this responsibility."

One of the keys to prevention is an effective early-warning system. The United Nations Centre for Human Rights in Geneva can play a paramount role in this regard by alerting the inter-

national community about impending mass exoduses growing out of situations involving human rights violations.

The Centre is also a member of the Ad Hoc Working Group on Early Warning Regarding New Flows of Refugees and Displaced Persons, which was established in April 1991 by the United Nations Administrative Committee on Coordination (ACC). The Working Group has been discussing the creation of an inter-agency consultative mechanism regarding potential new mass flows of refugees and displaced persons. At its last meeting, in June 1992, the Working Group made recommendations to the ACC concerning such a mechanism and also recommended that the newly created United Nations Department of Humanitarian Affairs (DHA) become the network's focal point.

In addition to DHA, other bodies represented in the Working Group are the United Nations Department of Economic and Social Development, the United Nations Department of Political Affairs, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Environment Programme, the United Nations Development Programme, the United Nations Children's Fund, the World Food Programme and UNHCR.

The Question of Sovereignty

The involvement of the international community in offering humanitarian assistance and in efforts to prevent new flows of refugees and displaced persons means that the prickly issue of sovereignty must be addressed.

The Under-Secretary-General for Human Rights said in 1991 that "one of the principal challenges for the future [is] to devise ways of dealing with Governments and authorities who systematically and massively violate basic human rights. . . . The international debate is now opened on this delicate question: how to establish the balance between respect for fundamental human rights—especially in situations of massive and systematic violations—and the national and international prerogatives of States, reflected in the concept of sovereignty."

Speaking more specifically about the problem of internally displaced persons, Sadako Ogata has outlined the question as follows: "To what extent should national sovereignty shield Governments who disregard or are unable to fulfil their responsibilities towards their own citizens? How can international concern be balanced with the need to encourage Governments to accept greater responsibility for the plight of the displaced? These questions are crucial, because the response to internal displacement may be a means of preventing refugee flows."

Beyond simple humanitarian concern, the debate over sovereignty springs from the fact that violations of human rights can have ramifications and consequences that go beyond national borders. If violations in one State produce huge numbers of refugees seeking asylum in another, the argument that human rights are solely an internal affair loses much of its force. Indeed, the presence of refugees may become a source of tension between States, with the potential to threaten international peace and security.

The attempt to establish a "right of humanitarian intervention" has received considerable attention of late. Some analysts say that, despite strong objections by many countries that it would create a troubling precedent for political interference and other kinds of meddling, the balance in recent years has been shifting in favour of those in need. United Nations bodies have been part of the trend towards delineating this right.

In December 1991, the General Assembly approved a set of principles for strengthening the coordination of United Nations humanitarian assistance that appears to tread a middle ground. The principles stress that the sovereignty, territorial integrity and national unity of States should be fully respected in the provision of humanitarian assistance, but they also emphasize the importance of international emergency assistance. The Security Council, at its summit-level meeting in January 1992, declared that non-military threats to peace and security in "economic, social, humanitarian and ecological fields" will also be given high priority.

International Humanitarian Law

International humanitarian law is the branch of international law dealing with the protection of victims of armed conflicts. This body of norms has been developed and codified in the four Geneva Conventions for the protection of war victims adopted in 1949 and in two Additional Protocols adopted in 1977. The treaties restrict the use of violence against those who are not engaged in armed fighting and prohibit methods of warfare that cause unnecessary suffering or damage to the environment.

Both the Conventions and the Protocols were adopted under the aegis of the International Committee of the Red Cross (ICRC)—the body which, under these treaties, has the mandate to protect and assist war victims. But many others have a role in ensuring respect for international humanitarian law—States parties, the International Red Cross and Red Crescent Movement, the United Nations and its agencies, other intergovernmental organizations, regional organizations and humanitarian non-governmental organizations (NGOs).

The lack of wider ratification has placed certain limits on the treaties' effectiveness. While the 1949 Conventions have been ratified or acceded to by 170 countries, the 1977 Protocols have not yet reached that level. The First Protocol (on victims of international conflicts) has 115 States parties; the Second Protocol (on victims of internal conflict) has 105 States parties. Nonetheless, the United Nations has invoked the Geneva Conventions and Protocols often, most recently in the case of the former Yugoslavia and of the Israeli-occupied territories.

On 13 July 1992, the Security Council reaffirmed that all parties to the conflict in the former Yugoslavia are bound to comply with the obligations under international humanitarian law and the Geneva Conventions and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible. One month later, the Council called on States and humanitarian organizations to gather information on violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the former Yugoslavia and to transmit such information to the Council.

Regarding the Israeli-occupied territories, the Council and the General Assembly have stated repeatedly that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the territories occupied by Israel since 1967, and have urged Israel to abide by its provisions.

The United Nations has played a role in developing international humanitarian law. The Convention on the Prevention and Punishment of the Crime of Genocide, approved by the General Assembly in 1948, states that genocide, whether committed in peace or in war, is a crime under international law which the States parties undertake to prevent and punish. The Declaration on the Protection of Women and Children in Emergency and Armed Conflict, proclaimed by the Assembly in 1974, states that attacks on civilians, especially on women and children, shall be prohibited and condemned.

As requested by a resolution approved by the General Assembly in December 1991, the United Nations has moved to strengthen the coordination of humanitarian assistance. In February 1992, the Secretary-General appointed the Organization's first Emergency Relief Coordinator to ensure leadership for rapid and coherent response to natural disasters and other emergencies.

The Coordinator, Jan Eliasson, heads the new United Nations Department of Humanitarian Affairs (DHA), which is responsible for coordinating all United Nations emergency assistance and for all emergency relief activities, including programmes under way in the Horn of Africa, Iraq, Afghanistan and Central America.

DHA consolidates within one body existing United Nations offices that deal with complex emergencies and will draw on the resources of the United Nations Disaster Relief Organization (UNDRO). In that respect, Mr. Eliasson also assumed the functions previously carried out by the United Nations Disaster Relief Coordinator.

UNDRO was founded in 1971 in response to a series of major natural disasters in the late 1960s and early 1970s. Since then, the scope of relief efforts has broadened to include famine, drought, desertification and man-made disasters such as civil strife. The creation of DHA is the natural outgrowth of the widening nature of humanitarian assistance provided by the United Nations.

The Emergency Relief Coordinator is also in charge of the management of the Central Emergency Revolving Fund, which was established by the Secretary-General as a cash-flow mechanism of $50 million to ensure a rapid and coordinated response to emergencies. The Fund is financed by voluntary contributions from Governments. In June 1992, its first allocation of $2 million went to UNICEF, which will use the funds to provide water, emergency drugs, vaccines and shelter to areas of Kenya stricken by drought and facing an unprecedented refugee influx.

Acute emergencies throughout the world continue to highlight the fact that human rights and humanitarian issues can no longer be viewed in isolation from one another. This linkage will be a major consideration in discussions at the World Conference on Human Rights to be held in Vienna in June 1993. The High Commissioner for Refugees has suggested three basic human rights issues for consideration:

The right of freedom of movement. A person who is compelled to leave his or her own country or denied the right to return is a person whose basic right of freedom of movement has been violated.

The right to a nationality. States have the responsibility to reduce statelessness and to provide for the possibility for individuals to enjoy the normal rights of nationality.

The question of human rights and mass exoduses, and in particular the responsibilities of countries from which people are forced to flee.

Another subject already receiving attention is the need for greater synergy between human rights law, refugee law and humanitarian law. The three fields are closely interrelated and often overlap, but have evolved separately. Many observers, citing uneven enforcement of human rights instruments, gaps and uncertainties in refugee law and the limited circumstances under which humanitarian law can be applied, have called for strengthening and integrating the legal framework covering refugees, displaced persons and other civilians affected by emergencies.

Mass movements of peoples are expected to remain a feature of the emerging global landscape. Experts contend that regardless of whether such exoduses range within or beyond national frontiers, they are not likely to be resolved in isolation from the major political and economic challenges facing States and the international community. Towards that end, a better understanding of the links between human rights and humanitarian issues, and among protection of human rights, good governance and sustainable development, will need to be part of the quest for solutions.

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ELIMINATING TORTURE

"They hung me up by the arms and gave me electric shocks. They hosed me with water at high pressure. They forced the hose into my throat and [turned on] the water. They squeezed my testicles"
—an 18-year-old detained by police in January 1992 on charges of theft and held incommunicado for nine days.

Such testimony, by no means the most gut-wrenching on record, is painfully familiar. The crime of torture remains a brutal fact of life the world over, from democracies to dictatorships, in peacetime and in war, in rich countries and in poor. Civilians as well as political activists and prisoners of war continue to fall into the hands of torturers.

One might think that humankind would have sworn off this cruellest and most ignominious form of human rights violation long ago. But such faith in human kindness would be sadly misplaced: reports of torture continue to be widespread. And when it comes to devising more "effective" means of torture, the human imagination seems to flourish.

The phenomenon of torture and the need to achieve greater compliance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have been raised within the framework of preparations for the World Conference on Human Rights to be held in Vienna in June 1993. Among the major goals of the Conference is to intensify the world-wide struggle to eliminate the practice of torture once and for all.

Defining Torture

The Convention against Torture adopted by the General Assembly in 1984 defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions." The Convention entered into force in June 1987 and as of September 1992 had 68 States parties.

The historical record shows that torture was meted out as far back as the reign of Ramses II. For most of the three thousand years since then, society viewed torture as an acceptable measure to use as protection against crime or dissension. It was only in nineteenth-century Europe, after the concept of human rights was more clearly elucidated and accepted by States, that the practice was discredited and forbidden. The impetus for this action was the drafting, in 1864, of the First Geneva Convention protecting prisoners of war and the wounded. The Convention was the work of Henry Dunan of Switzerland, who founded the International Committee of the Red Cross (ICRC) in 1863. It was revised in 1906 and 1924.

Torture methods differ from one country to another, often acquiring a country's local language to designate particular ways of making people suffer. In general, physical torture may take the form of beatings with truncheons or rifle butts; beating the soles of the feet with a rod; electrocution; burning with cigarettes; submersion of victims' heads in water until suffocation; nakedness, sexual assaults and rape; dental abuses; and deprivation of food and water. Of course, there are as many variations on these broad themes as there are torturers; one recent report told of a prisoner who was forced to swallow nails.

Psychological torture may include sleep deprivation, solitary confinement, mock execution, threats and verbal aggression. Torturers sometimes prefer these techniques to scarring the body so as to escape detection should an investigation be performed later. Physical torture also exacts a psychological toll. Torture's after-effects may include neurological or mental disorders, anxiety, prolonged fatigue and headaches, gastro-intestinal disorders, joint pains, cardio-pulmonary problems and pains related to traumas.

Why torture? An expert member of the Committee against Torture, established by the Convention against Torture, claims that the aim of governmental torture in modern times is "to destroy the identity of strong persons, to kill their souls, but not their bodies".

A study based on extensive interviews with military officers who had been heavily involved in torture revealed that torture was seen as the only means of getting to the truth rapidly where rapidity was considered to be essential. The goals of torture may also include destroying a person involved in opposition movements, breaking down his or

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her dignity, frightening the families of victims and spreading fear among the general populace. Torture is also considered an effective weapon against democratic movements. In addition to political leaders, common victims of torture include trade-unionists, journalists, student leaders and members of non-governmental organizations.

On a more perverse level, the sadistic pleasure derived by the powerful in degrading and punishing the powerless cannot be discounted as a factor driving the practice. Another reason that torture is so widespread is that it is a human rights violation that can be accomplished very easily. It tends to occur in isolation—in detention cells, interrogation rooms and torture chambers—and the victim, usually hooded or blindfolded, may never see the face of his torturer, robbing him of the eye-to-eye contact that might establish some bond of humanity. Instead, the victim becomes an object and the torturer escapes accountability.

Who are the actual perpetrators of torture? Torture is generally practised by government-employed persons in conditions where impartial witnesses are absent. In addition to military personnel, they might be members of intelligence services, police forces and State security agencies as well as jailers and medical professionals. Opposition organizations, rebel groups, terrorists, armed gangs, drug traffickers and others have also been known to commit torture.

Legal Protection

According to Peter Kooijmans, the Special Rapporteur on questions relevant to torture for the United Nations Commission on Human Rights, "There is hardly any human right which is so densely covered by a network of international instruments and mechanisms."

The Convention against Torture defines torture as an international crime so that torturers will find no safe haven. It obliges States parties to prevent torture in their jurisdictions and to ensure that it is legally punishable. No exceptional circumstances, such as war, threat of war, internal political instability or other emergency, may be invoked to justify torture; nor can a torturer be excused by virtue of having acted under orders.

The Convention also provides for the extradition of persons believed to have committed acts of torture or, failing extradition, for a torturer's prosecution, under certain conditions, in the State where he or she is found. States parties to the Convention must also ensure that torture victims receive protection and compensation. In addition, the Convention gives States parties the opportunity to make declarations recognizing the Committee against Torture's competence to consider claims by one State party against another or to consider complaints from individuals, as is possible under many other human rights instruments.

The Committee is composed of 10 experts elected by States parties and chosen for their "high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity". It is empowered to review and comment on reports from States parties on steps they take to implement the Convention. It may also undertake confidential inquiries in cases of serious allegations of torture, and request cooperation from the States parties against which such allegations are made. Once a year, the Committee submits a report on its activities to the Convention's States parties and to the General Assembly.

Additional legal protection is provided by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, both of which state that no one should be subjected "to torture or to cruel, inhuman or degrading treatment or punishment". Torture is also prohibited by the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) and the Convention on the Rights of the Child (1989), adopted by the United Nations General Assembly.

Corporal punishment, placing of prisoners in dark cells and all cruel, inhuman or degrading punishment are forbidden by the Standard Minimum Rules for Treatment of Prisoners adopted in 1955 by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Torture and cruel treatment are likewise prohibited by the Code of Conduct for Law Enforcement Officials adopted by the General Assembly in 1979.

In 1982, assisted by the World Health Organization, the Council for International Organizations of the Medical Sciences and the World Medical Assembly, the General Assembly formulated and adopted a set of "Principles of Medical Ethics" relevant to the role of health personnel, particularly doctors, in protecting prisoners and detainees from torture and cruel punishment. Since then, the Assembly has expressed concern over reports that medical professionals were engaging in activities that were difficult to reconcile with those Principles, and has urged States to promote application of the Principles by health personnel and government officials.

In addition to the procedures established in the Convention against Torture for implementing its provisions, the Commission on Human Rights has introduced an extra-conventional mechanism in order to be able to respond effectively to credible and reliable allegations of torture. In 1985, the Commission decided to appoint a Special Rapporteur to examine questions relevant to torture and requested him to report annually on his activities.

Combating Torture

Despite these and other legal protections, torture continues, even in

States parties to the Convention against Torture. As the Special Rapporteur concluded in his 1992 report to the Commission on Human Rights, "The world can no longer avoid the conclusion that while successes have been registered at the international level, only failures can be recorded at the national level. The most vital question before us, therefore, is: how do we bridge this seemingly unbridgeable gap?"

During 1991, the Special Rapporteur received what he termed an alarming number of communications on alleged cases of torture, including increasing numbers of requests for urgent action. The urgent appeal procedure is humanitarian in nature and typically involves asking Governments to guarantee their detainees' right to physical and mental integrity. Sixty-four urgent appeals, each of them concerning one or several persons, were sent in 1991.

In a series of urgent appeals sent to the Government of a Middle Eastern country, the Special Rapporteur requested information regarding 96 persons who had been detained and who, it was feared, might be subjected to torture. The Government responded by informing the Rapporteur that these persons had been arrested on various charges, such as taking part in an illegal street demonstration, being a member of an illegal organization and possessing explosives and ammunition. Allegations of torture were denied or not mentioned.

Such replies are common. Governments have also denounced allegations of torture as fabrications or as vilifications of the authorities, even though some of these same Governments have admitted on other occasions that torture has or might have occurred. On the other hand, the Rapporteur has also acknowledged that an increasing number of government replies conform to his requests.

Advisory services offered by the United Nations Centre for Human Rights in Geneva have helped many countries add a human rights dimension to courses given in police schools and to other security, law enforcement and public officials. The Centre also encourages Governments to bring national legislation into conformity with international human rights standards.

Among the measures that would help to accomplish this goal are compensating victims, punishing perpetrators, granting detainees the presumption of innocence, ensuring detainees' right of access to a lawyer, issuing prompt notification to families about a relative's detention and offering medical examinations by independent forensic doctors before and after detention and interrogation.

In his 1992 report, the Special Rapporteur recommended that incommunicado detention be declared illegal, that interrogation be conducted only at official interrogation centres, that places of detention be inspected regularly, that complaints about torture be investigated promptly and independently and that detained persons be assured the right to initiate proceedings on the lawfulness of their detention.

The Rapporteur singled out the role of a country's judiciary as the "last bastion for the protection of the citizen's basic rights". However, in his view, "it is tragic to note that in many cases the judiciary does not seem to be aware of the role it can play in upholding the rule of law" and that "in too many cases the judiciary, by hiding behind a false claim to impartiality and neutrality, has actually shielded the most brazen violations of human rights".

What might the judiciary do that it is not doing currently? The Rapporteur suggests that it could refuse to admit evidence that might have been obtained through torture, order the release of anyone who has been arrested and detained in violation of national and international standards and interpret national law in such a way that it conforms as much as possible with international standards. Unfortunately, until dramatic gains in the protection of human rights are achieved, the brave lawyers and judicial officials who take up the cause of human rights appear likely to continue to become targets of human rights violations themselves.

The same holds true for non-governmental organizations. NGOs play a crucial role in conducting world-wide campaigns to rouse public opinion and bring pressure on Governments. In May 1992, Amnesty International wrote to authorities in a European country to raise concern about allegations of ill treatment and torture by police of mostly black African asylum-seekers. The authorities promptly replied that an investigation had been ordered.

One of the most effective ways to deter torture is to arrange for regular visits to prisoners or political detainees, a procedure implemented successfully by the International Committee of the Red Cross (ICRC) in accordance with the provisions of the 1949 Geneva Convention. The ICRC has visited more than 500,000 detainees in 80 countries since 1919. The frequency of those visits increased after the Second World War.

Visits are also carried out within the jurisdiction of States parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Latin American States have discussed the possibility of setting up a similar Convention. The International Commission of Jurists and the Swiss Committee against Torture have stated their belief that the system of visits under the European Convention is cost-effective and juridically acceptable, and have recommended that similar systems be set up in Africa, North America and Latin America.

The idea of establishing a world-wide system of periodic visits, contained in a proposal made by Costa Rica in 1980, remains on the agenda of the Commission on Human

Rights. Towards this end, the Commission has established a Working Group in order to elaborate a draft optional protocol to the Convention against Torture.

Help for Victims

In 1973, Amnesty International held a conference in Paris to urge the medical profession to provide active medical assistance to victims of torture. The following year, the Rehabilitation and Research Centre of Torture Victims was established in Denmark and has since become one of the best-known facilities specializing in this area. Its activities include helping torture victims and their families, educating foreign health service personnel about ways to treat victims, conducting research on torture and its consequences and expanding into other countries documentation about the practice of torture. Similar rehabilitation centres have by now been established in several countries.

The Denmark Centre's doctors have found that they can help to relieve the mental anguish of torture victims through a multi-disciplinary approach consisting of psychotherapy, physiotherapy and counselling by a social worker. The role of social counsellors is considered crucial in helping victims resume a normal life, first at the treatment centre and then back in their home country or wherever they choose to settle. Such counsellors pay particular attention to victims' children, who often display lasting psychological wounds from the trauma of seeing a stricken parent. The Centre also relies heavily on interpreters to understand the sufferings and needs of victims. All personnel work hard to establish trust with their patients, since victims need to feel secure before talking about torture and its humiliations.

United Nations Voluntary Fund

The United Nations Voluntary Fund for Victims of Torture was set up by the General Assembly in 1981 to receive voluntary contributions and to help provide aid to institutions, organizations and groups offering medical, social and psychological assistance to torture victims and their families. Current grants have been given to projects being carried out in more than 40 countries. The projects are usually located at specialized rehabilitation centres, such as the Centre in Copenhagen and the Canadian Centre for Victims of Torture in Toronto.

The Fund's Board of Trustees has recommended that the World Conference on Human Rights set aside some time to meet as a pledging conference for contributions to the Fund. More generally, the World Conference will be a major forum for redoubling world-wide efforts to eliminate torture. Says the Special Rapporteur, "The fight against torture has to be continued relentlessly. . . . Only by the concerted and sustained action of all strata of society can the evil of torture be successfully fought and overcome. The prospect of the World Conference on Human Rights . . . should inspire all of us with new vigour in our efforts to eradicate this most malicious assault on human dignity."

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